

SENATE BILL 716

By Woodson

AN ACT to amend Tennessee Code Annotated, Section 45-13-201(b), relative to the exceptions to the Tennessee Residential Lending, Brokerage and Servicing Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 45-13-201(b), is amended by deleting subdivision (6) in its entirety and substituting instead the following:

A licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client.

SECTION 2. Tennessee Code Annotated, Section 45-13-201(b), is further amended by adding the following new subdivisions thereto:

(7)

(A) Any person under the control of another person who, as seller, receives or makes in any consecutive twelve-month period five (5) or fewer residential mortgage loans and who does not hold themselves out to the public as being in the mortgage lending business, unless the United States department of housing and urban development has:

(i) Determined by regulation that such person is a loan originator pursuant to the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, compiled in 12 U.S.C. § 5101, et seq.; and

(ii) Requires that such person be licensed as a mortgage loan originator.

(B) No person shall be exempt from subsection (a) and this chapter pursuant to this subdivision (b)(7) if such person makes more than five (5)

residential mortgage loans in a consecutive twelve-month period whether such person makes such loans themselves or through another person over whom such person has control;

(8) A person engaged solely in commercial real estate lending or a person who provides financing on property which is not and is not intended to be owner occupied by the person receiving the financing. This exception includes, but is not limited to, a person who provides financing for a property which will be subsequently leased or sold to a third party;

(9) Any person who makes a mortgage loan to an employee of such person as an employment benefit, employment incentive, or relocation package;

(10) Any person doing any act related to mortgage loans pursuant to an order of a court of competent jurisdiction;

(11) A person that performs only real estate brokerage activities and is licensed pursuant to the Tennessee Real Estate Broker License Act of 1973, compiled in title 62, chapter 13. Such person is permitted to communicate and include in any contract any mortgage terms agreed upon by the parties for the real property being financed without being required to be licensed under this section.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.